



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

09/09/73

D-178878

August 27, 1973

Ms. Winnie C. Greene
Authorized Certifying Officer
Federal Mediation and Conciliation Service
450 Golden Gate Avenue, Box 36007
San Francisco, California 94102

Dear Ms. Greene:

Your letter of May 23, 1973, requests our opinion regarding the appropriate amount of per diem payable to Mr. Earle D. Schwieger for April 1, 1973, in connection with temporary duty performed as an employee of the Federal Mediation and Conciliation Service.

Mr. Schwieger's travel was authorized by an annual travel order under which, by regulation of the Service, he and other mediators are permitted to submit one voucher covering each month's travel. You explain that payment made pursuant to Mr. Schwieger's voucher for the period from March 1 through March 31 allowed for lodging costs incurred during the night of March 31, yielding a with-lodging per diem rate of \$24 per day for the month of March. The particular assignment involved began in March and was completed on April 1. By his voucher for the month of April, Mr. Schwieger claimed per diem for April 1 at the \$24 rate which he received for previous days of the assignment.

Only the without-lodging rate of \$10 per day has been allowed Mr. Schwieger for April 1. The bases for disallowance are explained in the Administrative Suspension Statement as follows:

"Section 6.3 of the Standard Government Travel Regulations reads as follows in part --

"b. When lodgings are not required. For travel of less than 24 hours when a night's lodging is not required,* the per diem should be adjusted downward to reflect the fact that the traveler does not incur costs for lodging.

"This situation existed April 1, 1973.

"c. When lodgings are required. For travel in the continental U.S. when lodging away from the official station is required agencies shall fix per diem for

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employees partly on the basis of the average amount the traveler pays for lodgings. To such amount, the average of amounts paid for lodging while traveling on official business during the period covered by the voucher,** shall be added a suitable allowance for meals and miscellaneous expenses.

*** Per Diem thru March 31, 1973, has previously been paid at the rate of \$24.00 per day."

As a basis for reclaiming the \$14 difference, Mr. Schwieger explains:

"I feel that since completing my return travel April 1 from a trip which began in March, I should be entitled to the same Per Diem rate allowable during March.

"I believe that limiting the Per Diem rate of \$10 on April 1 constitutes a double standard, since had the trip been completed any other day of the month the \$24.00 rate would have been recognized."

In connection with the reclaim voucher, you ask whether Mr. Schwieger was correctly limited to the \$10 without-lodging rate for April 1, or whether, for that day, he is entitled to a with-lodging rate. If he is entitled to the higher rate, you then ask whether he might properly be limited to a \$23 rate based on the average cost of lodging during April rather than the \$24 rate applicable for March.

Regarding your question as to whether the with or the without-lodging rate of per diem is payable for April 1, we refer you to B-174683, January 12, 1972, copy enclosed, wherein we held that average lodging cost and hence the with-lodging per diem rate, is to be determined on the basis of the nights that lodgings are required. Thus, where travel involves 4-3/4 days, lodgings being required for only 4 of those nights, we held that the total lodging cost, on which basis the applicable per diem rate is established, is to be divided by 4. We further held that section 6.3c of the Circular, referenced above, does not require a second rate to be obtained for remaining fractional days of a trip on which fractional day lodging was not required. As in B-174683, where a trip involved one or more days and a fractional day, the per diem rate established as above may be used for the entire period of travel.

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In the above-discussed situation, the voucher was submitted on a trip basis. Your question arises, in part, because of the Federal Mediation and Conciliation Service's administrative procedure permitting submission of monthly rather than individual trip vouchers. While, as a matter of administrative convenience such a procedure may be desirable, that convenience nevertheless should not serve to defeat substantive rights. Where as in B-174683 and in Mr. Schwieger's case, the employee would be entitled to the with-lodging rate for the fractional day on the basis of a voucher covering the entire trip, he continues to be entitled to the with-lodging rate for the fractional day regardless that such cost may have been claimed on a monthly voucher which segregates that fractional day from the remainder of the trip.

Regarding computation of the applicable with-lodging rate of per diem for April 1, where a monthly voucher is involved, we note that either of two situations may pertain. The voucher which includes the fractional day may include only that fractional day, or it may cover additional trips. Where it includes only the fractional day, there are, of course, no amounts paid for lodging during the period covered by the voucher which may be averaged to obtain an average cost of lodging for the period covered by the voucher as contemplated by paragraph 6.3c, supra. In such case, the rate for the fractional day would be the with-lodging rate for the previous month. However, where the voucher includes the fractional day along with other trips to follow in the same month during which lodgings were required, the with-lodging per diem rate determined on the basis of the nights lodging for that entire month should be applied to that fractional day. Thus, in the instant case payment of per diem to Mr. Schwieger for April 1 should be made on the basis of the \$23 rate which is the with-lodging rate for the month of April.

The voucher returned herewith is for handling in accordance with the above.

Sincerely yours,

Paul G. Dembicki

Comptroller General
of the United States

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